

REMARKS

Claims 1-13 are pending in the application and were subject to the Requirement for Restriction. Applicants reserve the right to file one or more divisional or continuation applications directed to the non-elected subject matter.

Restriction Requirement

The Examiner has required restriction to one of the following inventions under 35 U.S.C. §§ 121 and 372:

- I) Claims 1-7, drawn to a method for detecting a perilymph fistula; and
- II) Claims 8-13, drawn to an anti-Cochlin N-terminal fragment antibody, reagents, and a reagent kit.

In addition, the Examiner has indicated that should Group I be elected, a further restriction is required to one of the following species of antigenic determinants:

Species “a”: SEQ ID NO:2;

Species “b”: SEQ ID NO:5;

Species “c”: SEQ ID NO:6; and

Species “d”: SEQ ID NO:7.

Election with Traverse

In order to be responsive to the requirement for restriction, Applicants elect the invention set forth in Group I (claims 1-7), Species “d” (SEQ ID NO:7), with *traverse*. Applicants submit that at least Claims 1-7 read on the elected invention. At least Claims 1-5 and 7 read on Species “d”.

Traverse

Notwithstanding the election of the claims of Group I in order to be responsive to the Restriction Requirement, Applicants respectfully traverse the Examiner’s requirement

for restriction.

The Examiner has stated that the inventions of Group I (claims 1-7) and Group II (claims 8-13) do not relate to a single general inventive concept under PCT Rule 13.1 because they allegedly lack the same or corresponding special technical feature. In particular, the Examiner has stated that the technical feature shared in common by the groups as defined by the independent claims appears to be that of detection of the Chochlin protein, and further that Carey et al. (US 2003/0082646; hereinafter CAREY) teaches detection of the Cochlin protein. The Examiner therefore concludes that the special technical feature does not define a contribution over the prior art of CAREY.

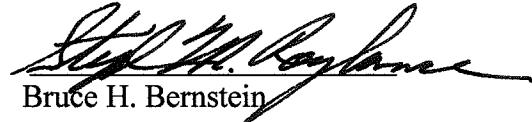
In response, Applicants submit that the claims encompass a special technical feature which does define a contribution over the prior art of CAREY. However, even if the Examiner's characterization of Groups I-II were to be considered correct, Applicants respectfully request that both of the inventions defined in claims 1-13 be examined in the instant application, pursuant to the guidelines set forth in M.P.E.P. § 803. That is, the Examiner is respectfully requested to reconsider the requirement and find that there would not appear to be a "serious burden" on the Patent and Trademark Office in examining claims directed to the non-elected invention.

In particular, it would appear that a search for the inventions identified by the Examiner would significantly overlap. That is, if the Examiner were to perform a search for the invention of Group I, there would not appear to be a serious burden in continuing the examination of Group II. Furthermore, the Examiner has not stated that examination of all the claims would pose a burden, much less set forth any reasons why examination of the all the restricted groups would be burdensome. For this reason, and consistent with the Office policy as set forth in M.P.E.P. § 803, Applicants respectfully request that the Examiner reconsider and withdraw the Requirement for Restriction.

In view of the foregoing, it is respectfully requested that the Examiner reconsider the Requirement for Restriction, and withdraw the same so as to give an examination on the merits on all of the claims pending in this application, for which Applicants have timely paid appropriate claim fees.

Should the Examiner have any questions, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,
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